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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4349

11 **HALF MOON BAY PHARMACY**  
12 **40 Stone Pine Road, Suite 1**  
13 **Half Moon Bay, CA 94019**

**A C C U S A T I O N**

14 **Pharmacy License No. PHY 44400**

15 **and**

16 **HARISH ODEDRA**  
17 **130 Turnberry Road**  
**Half Moon Bay, CA 94019**

18 **Pharmacist License No. RPH 43972**

19 Respondents.

20 Complainant alleges:

21  
22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about February 4, 2000, the Board of Pharmacy issued Pharmacy License No.  
26 PHY 44400 to Odedra Pharmacy Inc., Harish Odedra, President, dba Half Moon Bay Pharmacy  
27 (Respondent Half Moon Bay) The License was in full force and effect at all times relevant to the  
28 charges brought herein and will expire on February 1, 2014, unless renewed.

3. On or about March 4, 1991, the Board of Pharmacy issued Pharmacist License No. RPH 43972 to Harish D. Odedra (Respondent Odedra). The License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2014, unless renewed. Since on or about February 18, 2000, Respondent Odedra has served and/or has been reflected in Board records as the Pharmacist in Charge (PIC) for Respondent Half Moon Bay.

## JURISDICTION

4. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

6. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

7. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

## STATUTORY AND REGULATORY PROVISIONS

8. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but not be limited to, any of the following:

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by  
4 the board or by any other state or federal regulatory agency.

5 9. Section 4113, subdivision (c) of the Code states:

6 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state  
7 and federal laws and regulations pertaining to the practice of pharmacy."

8 10. Section 4104 of the Code requires, in pertinent part, that every pharmacy shall have in  
9 place procedures for taking action to protect the public when a licensed individual employed by  
10 or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired  
11 to the extent it affects his or her ability to practice the profession or occupation authorized by his  
12 or her license, or is discovered or known to have engaged in the theft, diversion, or self use of  
13 dangerous drugs, and that every pharmacy shall have written policies and procedures for  
14 addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of  
15 dangerous drugs, among licensed individuals employed by or with the pharmacy.

16 11. Health and Safety Code section 11158 et seq., including but not limited to Health and  
17 Safety Code section 11162.1, require in pertinent part that any prescription for a Schedule II, III,  
18 or IV controlled substance (as designated by Health and Safety Code sections 11055, 11056, and  
19 11057) shall be written on a controlled substance prescription form (security form) meeting the  
20 requirements of Health and Safety Code section(s) 11161.5 and/or 11162.1.

21 12. Health and Safety Code section(s) 11159.2, in pertinent part, sets out out a limited  
22 exception to the controlled substance prescription form (security form) requirements applicable to  
23 terminally ill patients under circumstances and according to requirements specified therein.

24 13. Health and Safety Code section(s) 11167.5, in pertinent part, sets out out a limited  
25 exception to the controlled substance prescription form (security form) requirements applicable to  
26 patients in certain settings (patients of a licensed skilled nursing facility, licensed intermediate  
27 care facility, licensed home health agency, or licensed hospice), under circumstances and  
28 according to requirements specified therein.

1 14. Title 21, Code of Federal Regulations, section 1304.04(f) requires, in pertinent part,  
2 that inventories and records of Schedule I and II controlled substances shall be kept separate from  
3 all other records, and that inventories and records of Schedule III-V controlled substances shall be  
4 either kept separate from other records, or be immediately retrievable from the business records.

5 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
6 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
7 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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9 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

10 16. Section 4021 of the Code provides that a "controlled substance" means any substance  
11 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

12 17. Section 4022 of the Code states, in pertinent part:

13 "Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use,  
14 except veterinary drugs that are labeled as such, and includes the following:

15 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without  
16 prescription,' 'Rx only,' or words of similar import. . . .

17 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
18 prescription or furnished pursuant to Section 4006."

19 18. **OxyContin** is a brand name for **oxycodone**, a Schedule II controlled substance as  
20 designated by Health and Safety Code section 11055(b)(1)(M) and a dangerous drug as  
21 designated by Business and Professions Code section 4022. It is an opioid analgesic.

22 19. **Fentanyl** is a Schedule II controlled substance as designated by Health and Safety  
23 Code section 11055(c)(8) and a dangerous drug as designated by Business and Professions Code  
24 section 4022. It is an opioid analgesic.

25 20. **Morphine** is a Schedule II controlled substance as designated by Health and Safety  
26 Code section 11055(b)(1)(L) and a dangerous drug as designated by Business and Professions  
27 Code section 4022. It is an opioid analgesic.

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1       21. **Methadone** is a Schedule II controlled substance as designated by Health and Safety  
2 Code section 11055(c)(14) and a dangerous drug as designated by Business and Professions Code  
3 section 4022. It is an opioid analgesic.  
4

5                   **CAUSES FOR DISCIPLINE, AS TO BOTH RESPONDENTS**

6                           FIRST CAUSE FOR DISCIPLINE

7                           (Lack of Procedures to Protect Against/Address Employee Impairment)

8       22. Respondents are each and severally subject to discipline under section 4301(j) and/or  
9 (o) and/or section 4113(c) of the Code, by reference to section 4104 of the Code, for violating  
10 statutes regulating controlled substances or dangerous drugs, and/or directly or indirectly  
11 violating, attempting to violate, or assisting in or abetting a violation of laws or regulations  
12 governing the practice of pharmacy, in that, during an inspection conducted by the Board on or  
13 about December 2, 2011, Board Inspector(s) discovered that Respondents had no procedures in  
14 place for taking action to protect the public from a chemically, mentally, or physically impaired,  
15 or diverting or self-using, licensed employee, and/or had no written policies or procedures for  
16 addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of  
17 dangerous drugs, among licensed individuals employed by or with the pharmacy.  
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19                           SECOND CAUSE FOR DISCIPLINE

20                           (Failure to Segregate Schedule II Records)

21       23. Respondents are each and severally subject to discipline under section 4301(j) and/or  
22 (o) and/or section 4113(c) of the Code, by reference to Title 21, Code of Federal Regulations,  
23 section 1304.04(f), for violating statutes regulating controlled substances or dangerous drugs,  
24 and/or for directly or indirectly violating, attempting to violate, or assisting in or abetting a  
25 violation of laws or regulations governing the practice of pharmacy, in that, during an inspection  
26 conducted by the Board on or about December 2, 2011, Board Inspector(s) discovered that  
27 Respondents had not segregated Schedule II records from other drug records.  
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1 THIRD CAUSE FOR DISCIPLINE

2 (Invalid Controlled Substance Prescriptions)

3 24. Respondents are each and severally subject to discipline under section 4301(j) and/or  
4 (o) and/or section 4113(c) of the Code, by reference to Health and Safety Code section(s) 11158  
5 et seq., 11162.1, 11159.2, and/or 11167.5, for violating statutes regulating controlled substances  
6 or dangerous drugs, and/or for directly or indirectly violating, attempting to violate, or assisting in  
7 or abetting a violation of laws or regulations governing the practice of pharmacy, in that, between  
8 on or about December 28, 2009 and on or about August 30, 2011, Respondents dispensed at least  
9 fifty (50) prescriptions for Schedule II controlled substances, including **oxycodone**, **fentanyl**,  
10 **morphine**, and **methadone**, that were not written on required controlled substance prescription  
11 forms (security forms), and which were not otherwise valid controlled substance prescriptions.  
12

13 FOURTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct)

15 25. Respondents are subject to discipline under section 4301 of the Code in that  
16 Respondents, as described in paragraphs 22 to 24 above, engaged in unprofessional conduct  
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20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
22 and that following the hearing, the Board of Pharmacy issue a decision:

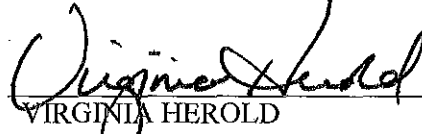
- 23 1. Revoking or suspending Pharmacy License No. PHY 44400, issued to to Odedra  
24 Pharmacy Inc., Harish Odedra, President, dba Half Moon Bay Pharmacy;  
25 2. Revoking or suspending Pharmacist License No. RPH 43972, issued to Harish D.  
26 Odedra;  
27 3. Ordering Respondents to pay the Board the reasonable costs of the investigation and  
28 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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4. Taking such other and further action as is deemed necessary and proper.

DATED:

5/9/13



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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